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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,769	03/30/2001	Stanislaw Wladyslaw Janisiewicz	00702.00017	3619

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EXAMINER

LE, DANG D

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 04/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/820,769

Applicant(s)

JANISIEWICZ ET AL.

Examiner

Dang D Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 13-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 13-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group II, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

Information Disclosure Statement

2. The Information Disclosure Statement filed on 6/21/01 and 1/15/02 has been placed in the application but references will not be considered by the examiner. Applicant(s) inundated the Examiner with a large volume of prior art that is not material and may obscure a single reference that is material and thus may be effective as improper as withholding a material reference. *Ex Parte Morning Surf Corp.*, 230 USPQ 446, and *Penn Yan Boats, Inc. v. Sea Lark Boats, Inc.*, 359 F. Supp. 948, 175 USPQ 260 (S.D. Fla. 1972).

“Significantly, an applicant’s duty of disclosure of material and information is not satisfied by presenting a patent examiner with “a mountain of largely irrelevant [material] from which he is *presumed* to have been able, with his expertise and with adequate time, to have found the critical [material]. It ignores the real world conditions under which examiners work.” *Rohm & Haas Co. v. Crystal Chemical Co.* 722 F.2d 1556, 1573 [220 USPQ 289], (Fed.Cir., 1983)

As delineated above, the request to consider the unreasonable amount of the prior art is denied. Additionally, in order for the foreign prior art to be considered by the examiner, Applicant(s) is required to provide not more than few relevant foreign references with their translations (if required).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "said positioning phase modules" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 4-9, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Cho.

Regarding claim 1, Krueger shows a variable reluctance motor (Figures 5-8) comprising:

- At least one first phase module (poles on rotor 62) and at least one corresponding second phase module (poles on opposite side of rotor 62) of said first phase module positioned opposite and spaced from said corresponding second phase module;
- A stator (68) extending between said first and second phase modules and (see Figure 1, 38)
- At least one stator positioning system (60, Figure 5) configured to adjust the position of said stator relative to said first and second phase modules such that the level of noise (less vibration, less noise) produced by said motor is adjusted.

Regarding claim 4, it is noted that Cho also shows said positioning system (60) comprising at least one shaft (64) and at least one positioning member (74) configured to contact said stator such that the position of said stator relative to said phase modules is adjusted.

Regarding claim 5, it is noted that Cho also shows said positioning phase modules comprising stator guide bearings (66), said stator guide bearings being rotatable relative to said stator.

Regarding claim 6, it is noted that Cho also shows at least one shaft being flexible (due to adjusting screw 74), and wherein said positioning system includes at least one shaft flexing member (74) contacting said at least one shaft such that a flexing force is exerted on said at least one shaft.

Regarding claim 7, it is noted that Cho also shows said at least one shaft (64) comprising a central portion (for pivot 65) and a plurality of end portions (for pivot 75) extending from said central portion, said end portions having diameters less than that of said central portion (Figure 6).

Regarding claim 8, it is noted that Cho also shows a variable reluctance motor comprising:

- At least one phase comprising first and second phase modules (poles and opposite poles of rotor 62), said first and second phase modules positioned opposite and spaced apart from each other;
- A stator (68) extending between said first and second phase modules such that a gap is formed between said stator and each opposing phase modules; and
- At least one positioning system (60) configured to contact and move the stator to adjust the size of said gaps thereby adjusting the level of noise produced by the motor.

Regarding claim 9, it is noted that Cho also shows said first and second opposing phase modules being positioned on opposite sides of said stator (poles and opposite poles of rotor 62).

Regarding claim 11, it is noted that Cho also shows flexible bearing shafts (64), each of said flexible bearing shaft supporting a corresponding pair of stator bearings (66, 63).

Regarding claim 12, it is noted that Cho also shows said flexible bearing shafts (64) further including a screw (74) for adjusting the position of each said shaft and the position of said stator relative to said first and second opposing phase modules.

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Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 2, 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cho in view of Madsen.

Regarding claims 2 and 10, Cho shows all of the limitations of the claimed invention except for said first and second phase modules each comprising a generally C shaped core, each said core including a wire positioned about said core such that magnetic flux is propagated through said core when current flows through said wire. (Cho does not clearly show the type of rotor/armature used)

Madsen shows said first and second phase modules (101, 102) each comprising a generally C shaped core, each said core including a wire (117, 117a, 118, 118a) positioned about said core such that magnetic flux is propagated through said core when current flows through said wire for the purpose of making a linear motor.

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Since Cho and Madsen are all from the same field of endeavor; the purpose disclosed by one inventor would have been recognized in the pertinent art of the others.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use first and second phase modules each comprising a generally C shaped core, each said core including a wire positioned about said core such that magnetic flux is propagated through said core when current flows through said wire as taught by Madsen for the purpose discussed above.

Regarding claim 3, it is noted that if the motor of Cho modified by Madsen, the motor would also show said stator spaced from said first and second phase modules by corresponding air gaps said air gaps changing size as the position of the stator is adjusted, thereby adjusting the level of noise produced by said motor.

Information on How to Contact USPTO

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dang D Le whose telephone number is (703) 305-0156. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7382 for regular communications and (703) 308-7382 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

DDL
April 10, 2002


DL